

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** May 28, 2010  
**POSITION:** Neutral

**BILL NUMBER:** SB 1268  
**AUTHOR:** J. Simitian

### **BILL SUMMARY:** Electronic Toll Collection and Personal Data

This bill would prohibit a transportation agency, as defined, from selling or providing the personally identifiable information of a person obtained pursuant to the person's participation in an electronic toll collection system or use of a toll facility. This bill would require a transportation agency to establish a privacy policy regarding personally identifiable information in that regard and to provide the policy to subscribers in published form and post the policy on its web site.

### **FISCAL SUMMARY**

This bill would create a state mandate by requiring a local agency to establish a privacy policy, provide the policy to subscribers, post the policy on its web site, and purge data. The mandated reimbursement would likely be minor since many agencies currently use FasTrak, which has a privacy policy that is consistent with federal and State laws governing an individual's rights to privacy. The bill also provides that any implementation costs may be offset by an administrative fee, thereby making the mandate non-reimbursable.

### **COMMENTS**

Finance is neutral on this bill.

Analyst/Principal (0751) M. Tollefson	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

<b>BILL ANALYSIS</b>	Form DF-43 (Rev 03/95 Buff)
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J. Simitian

May 28, 2010

SB 1268

**ANALYSIS****A. Programmatic Analysis**

**Current law** authorizes the development and implementation of various electronic bridge and highway toll collection systems.

**This bill** would prohibit a transportation agency, as defined, from selling or providing the personally identifiable information of a person obtained pursuant to the person's participation in an electronic toll collection system or use of a toll facility. This bill would require a transportation agency to establish a privacy policy regarding personally identifiable information in that regard and to provide the policy to subscribers in published form and post the policy on its web site.

**Discussion:** This bill would impose privacy restrictions on transportation agencies, such as the Department of Transportation, the Bay Area Toll Authority, and any entity that operates a toll bridge, lane, or highway. Specifically this bill would prohibit these entities from selling, or providing to any other person, the personally identifiable information of either subscribers of an electronic toll collection system or anyone who uses a toll system unless under several specified exceptions, such as the providing of information to a law enforcement agency pursuant to a search warrant or using the information to communicate with the subscribers exclusively about toll related products and services. Systems, such as FasTrak, track subscriber usage, account balance, location and speed of vehicle, and time of day. While transportation agencies would be permitted to store certain account related information such as an account holder's name, credit card number, and billing address, beginning July 1, 2011, this bill would require all other information to be discarded six months after the closure date of the billing cycle or 60 days after a bill has been paid, whichever occurs last. Beginning July 1, 2011, transportation agencies would be required to purge data within 60 to 150 days after an account has been closed or terminated

While many transportation agencies, such as the Metropolitan Transportation Commission, already have privacy policies, the author's office is concerned that existing restrictions on information sharing and sales of personal information are policy based and vary between transportation agencies.

We note, however, the statute of limitations on consumer complaints is four years. It is unclear whether the purging requirements in this bill would jeopardize any consumer complaints or lead to higher costs due to the differences in records retention laws.

**B. Fiscal Analysis**

This bill would create a state mandate by requiring a local agency to establish a privacy policy, provide the policy to subscribers, post the policy on its web site and purge data. The mandated reimbursement would likely be minor since many agencies currently use FasTrak, which has a privacy policy that is consistent with federal and State laws governing an individual's rights to privacy. The bill provides for the imposition of fees to cover any implementation cost, thereby making the mandate non-reimbursable.

**BILL NUMBER**

SB 1268

	SO	(Fiscal Impact by Fiscal Year)							
Code/Department	LA	(Dollars in Thousands)							
Agency or Revenue	CO	PROP							Fund
Type	RV	98	FC	2010-2011	FC	2011-2012	FC	2012-2013	Code
2660/Caltrans	SO	No		-----	See Fiscal Summary	-----			0042
<u>Fund Code</u>	<u>Title</u>								
0042	Highway Account, State, STF								